

EMPLOYMENT (AMENDMENT) ACT, 2012

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EMPLOYMENT (AMENDMENT) ACT, 2012

A BILL FOR AN ACT TO AMEND THE EMPLOYMENT ACT

Enacted by the Parliament of The Bahamas

1. Short title.

This Act which amends the Employment Act¹ may be cited as the Employment (Amendment) Act, 2012.

2. Amendment of section 2 of the principal Act.

Section 2 of the principal Act is amended in subsection (1) by —

- (a) inserting next after the words “twenty-four” the word “consecutive”;
- (b) inserting in the appropriate alphabetical sequence the following terms —
 - “**overtime**” means the time than an employee works during a day or week in excess of standard hours of work;
 - “**public holiday**” means any day that is a public holiday pursuant to the terms of the Public Holidays Act²,
 - “**week**” in relation to an employee, means the period of seven days within which the working week of that employee ordinarily falls;”

3. Amendment of section 5 of the principal Act.

Section 5 of the principal Act is amended in paragraph (a) of subsection (1) by inserting the word “legal” immediately next after the word “the”.

¹Ch. 321A

²Ch. 36

4. Amendment of section 8 of the principal Act.

Subsection (1) of section 8 of the principal Act is amended by—

- (a) substituting the period appearing at the end of paragraph (b) for a semi colon;
- (b) inserting immediately after paragraph (b) the following new paragraph (c)—
 - “(c) inclusive of a meal interval of not less than one hour, or any such period as may be agreed upon by the employer and employee.”

5. Repeal and replacement of section 9 of the principal Act.

Section 9 of the principal Act is repealed and replaced as follows —

“9. Daily and weekly rest period.

- (1) An employer must allow an employee —
 - (a) a daily rest period of at least twelve consecutive hours between ending and recommencing work; and
 - (b) a weekly rest period of at least forty-eight hours which shall be divided into two days and, unless otherwise agreed, need not be consecutive.
- (2) In subsection (1)(b) one of the days of the week shall be referred to as a fixed day off.
- (3) For the purposes of this Act —
 - (a) a period of twenty-four consecutive hours of rest is referred to as a day off;
 - (b) a fixed day off shall be a day established at the commencement of the employment term and not subject to change without agreement in writing.”

6. Amendment of section 10 of the principal Act.

Section 10 of the principal Act is amended—

- (a) in paragraph (a) by inserting next after the word “or” the word “fixed”;
- (b) in the proviso by deleting the word “second” and substituting therefor the word “fixed”.

7. Insertion of new section 10A into the principal Act.

The principal Act is amended by inserting next after section 10 the following as the new section 10A—

“10A. Public holidays.

- (1) An employer may not require an employee to work on a public holiday except in accordance with an agreement.
- (2) If a public holiday falls on a day on which an employee would ordinarily work, an employer must pay —
 - (a) an employee who does not work on the public holiday, at least the wage that the employee would ordinarily have received for work on that day;
 - (b) an employee who does work on the public holiday at least double the amount referred to in paragraph (a).”

OBJECTS AND REASONS

The Employment (Amendment) Bill, 2011 seeks to amend the existing Employment Act, Chapter 321A, by bringing clarification to those clauses that fall prey to various interpretations and ambiguity.

Clause 2 of the Bill amends section 2 of the principal Act by clarifying the definition of the term “day” to mean twenty-four consecutive hours, and further by the insertion of the definitions of the words “overtime”, “public holiday” and “week”.

Clause 3 of the Bill amends section 5 of the principal Act by the insertion of the word “legal” to ensure, that in the event of a dispute between an employer and an employee, the proper parties are named.

Clause 4 of the Bill amends section 8 of the principal Act by inserting a new paragraph (c) which provides for a meal interval of not less than one hour to be included in the computation of the standard hours which an employee is remunerated.

Clause 5 of the Bill amends section 9 of the principal Act by setting out the daily and weekly rest periods to which an employee is entitled. Additionally, section 9 is amended to reflect that an employee is entitled to two days off per week. The two days shall be divided into 2 twenty four consecutive hour periods, with one of those days being referred to as a fixed day off. Subsections 3(a) and (b) provides definitions for the new terms.

Section 9 also provides for an employer to allow an employee at least twelve consecutive hours of rest between ending and recommencing work.

Clause 6 of the Bill amends section 10 of the principal Act by the deletion of the word “second” and the substitution of the word “fixed”. The purpose of which is to reflect that work conducted on an employee's fixed day off attracts the payment of twice his regular rate of wages, and a fixed day may not necessarily be an employee's second day off.

Clause 7 of the Bill amends the principal Act by the insertion of a new section 10A. By virtue of the new section, it is made clear that an employee may not work on a public holiday, except in accordance with an agreement.

The new section 10A further provides that, where a public holiday falls on a day that an employee would ordinarily work, in the event that the employee does not work on the holiday, he must be paid his regular rate of wages. Where an employee does in fact work on a public holiday, he is to be paid twice his regular rate of wages.